

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE ON HOUSE BILL 517

Call to Order: By **CHAIRMAN FRANK SMITH**, on April 13, 2005 at
9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Frank Smith, Chairman (D)
Rep. Brady Wiseman (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Sen. Rick Laible (R)
Rep. Joe McKenney (R)
Sen. Jon Tester (D)

Members Excused: None.

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: HB 517

SEN. SMITH opened the Free Conference Committee on HB 517.

There were two sets of amendments being discussed for HB 517; hb051707.agp and hb051708.agp. Exhibit 1 is hb051707.agp.

EXHIBIT(frs79sb0517a01)

SEN. TESTER thought that the amendments looked the same with the exception of 1.5 liters a day versus one liter a day. He asked Ms. Murdo if there were any other differences other than that.

Ms. Murdo, Legislative Fiscal Division, replied that there was no other difference.

Motion: **SEN. TESTER** moved that HB 517 BE AMENDED WITH HB051707.AGP.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 1}

Discussion: **REP. WISEMAN** commented that the Code Commissioner had taken the text and arranged it in a way that would be readable. He felt that this would give them an advantage in understanding the bill. He cited that Amendment 3 would set forth what a microdistillery may or may not do. The amendment also provided a definition of a microdistillery. He noted that Amendment 2 would remove the current subsection text which is not clear and replace it with the new Subsection 3.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 2.8}

REP. MCKENNEY informed the Committee that he would prefer the amendment hb051707.agp because it called for not more than one liter a day sold. He asserted that most of the bottles are sold at 750 ml, so the 1.5 liter amendment would allow two bottles to be sold, whereas the other amendment would restrict it to one bottle. He thought that with the three-tiered system that is in place, he would want the retailers to be partners with the distillers. He felt that the best way for this to happen would be for the retailers to have an incentive to have the product marketed and sell it, without the distiller crossing the line into retail. He claimed that he would not support the amendment set forth by **SEN. TESTER** but he would support the second amendment.

{Tape: 1; Side: A; Approx. Time Counter: 2.8 - 4.3}

SEN. LAIBLE felt that they would be limiting the ability of a distillery to start operations if they limited their ability to

one liter per day. He asked **REP. HIMMELBERGER** if there was a limit to the amount a microbrewery could sell to a consumer.

REP. HIMMELBERGER responded that for off-premise consumption, there was not a limit to the amount they could sell to consumers. However, on-premise consumption is limited. He noted that there was a taproom exception which many of the small breweries chose not to utilize. He understood the rationale for the 1.5 liters per day was so that a consumer could pick up two bottles. He expressed that most distilleries sell more than one type of alcohol and they would want to let consumers sample more than one type at a time.

REP. WISEMAN asserted that the argument the people on the production side were making was that the standard unit is the 750 ml bottle and just as a matter of trading-convenience it would be easier for them to offer two bottles to a visitor at the distillery. However, he claimed that if there is enough objection to the 1.5 liters the other amendment would be fine with him.

Substitute Motion: **REP. WISEMAN** made a substitute motion that **HB 517 BE AMENDED WITH HB051708.AGP.**

{Tape: 1; Side: A; Approx. Time Counter: 4.3 - 8.6}

Discussion: **SEN. LIABLE** pointed out that if the distillery made two kinds of products, they would be limited by the one liter restriction.

REP. HIMMELBERGER agreed that it would limit the distillery. He stated that in the case of a local from the community it would not matter. However, if an individual was visiting, he assumed that there would be more than one person and they could each buy a bottle.

REP. WISEMAN commented that they should not discount the creativity of the entrepreneurs in the room. He expected that if there was a limit, they would be able to find a way to provide.

Vote: Motion failed 4-0 in the House and 1-2 in the Senate with **SEN. LAIBLE** and **SEN. TESTER** voting no by roll call vote.

{Tape: 1; Side: A; Approx. Time Counter: 8.6 - 11.8}

SEN. LIABLE wondered why there was an objection to the 1.5 liters in the state. He felt that this was an opportunity to have distillers come to Montana. He did not see them as a threat to off-sale liquors.

REP. MCKENNEY agreed that the laws were arcane and difficult. He indicated that the problems came down to the quota system, licenses, and gaming. He expressed that there was a three tiered system in Montana: manufacturer, wholesaler, and then the retailer. He claimed that if the distillers were to be successful they have to be on the same side as the retailer. In order to work together, they have to understand the pressure that the Tavern Industry is under every session. He asserted that the tavern owners were on board to help the distillers but required that they not sell more than 1 liter per day to individuals.

{Tape: 1; Side: A; Approx. Time Counter: 4.3 - 16.5}

SEN. LIABLE followed up by restating that the Tavern Owners Association was on board with the proposal. He expected that there would be continual assistance from the Tavern Owners Association for the distilleries to be successful. He was curious if there would be opportunities in the future to increase the amount.

REP. MCKENNEY did not mean to imply that. He meant that they would be able to increase their sales through the retail outlets. He pointed out that most taverns in Montana have local beer on tap because it is to their benefit to help the local entrepreneurs.

SEN. TESTER made a side comment about chipping away at the Tavern Association. He felt that the taproom idea has actually added to the industry. He thought that the same thing would happen with the distillery industry, where there is a certain type of alcohol that an individual likes and would seek out. He expected that by passing this it would promote alcohol as a supplement to meals. He attested that the 1.5 limitation would allow individuals to try more than one type of beverage, which would give benefits to the retail industry.

{Tape: 1; Side: A; Approx. Time Counter: 16.5 - 21.8}

SEN. LIABLE asked if **REP. MCKENNEY** would reconsider going to 1.5 liter limitation. He thought that as a representative of the Tavern Owners Association, it would be a great move. He felt that in the long run it would be a great advantage to the tavern industry.

REP. MCKENNEY had difficulty when he is called a representative of the Tavern Owners Association, he claimed he was at the legislature for purposes other than that. He thought that the Tavern Industry had already come to the table, and wanted the

distilleries to be successful but would not want to go above 1 liter.

Motion/Vote: SEN. TESTER moved to RECONSIDER THE MOTION on HB 517. Motion carried unanimously by voice vote.

{Tape: 1; Side: A; Approx. Time Counter: 20.3 - 24.7}

Motion/Vote: REP. MCKENNEY moved that HB 517 BE AMENDED WITH HB051708.AGP. Motion carried unanimously by roll call vote.

{Tape: 1; Side: A; Approx. Time Counter: 24.7 - 25.5}

Motion/Vote: SEN. TESTER moved that the FREE CONFERENCE COMMITTEE REPORT ON HB 517 DO PASS AS AMENDED. Motion carried unanimously by roll call vote.

{Tape: 1; Side: A; Approx. Time Counter: 25.5 - 26.9}

ADJOURNMENT

Adjournment: 10:00 A.M.

SEN. FRANK SMITH, Chairman

ANNIE GLOVER, Secretary

BRITT NELSON, Transcriber

FS/ag/bn

Additional Exhibits:

EXHIBIT ([frs79sb0517aad0.PDF](#))